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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.F.A. 15/2017 and C.M. Appl. No. 23967/2017 (for stay)

KAMALJEET SHARMA

..... Appellant

Through: Mr. Sanjiv Bahl and Mr. Udit Gupta,
Advocates.

versus

KAVITA SHARMA & ANR

..... Respondents

Through: Mr. Puneet Mittal, Sr. Advocate with
Mr. Amitej Kumar and Mr. Ankit
Goel, Advocate for R-1.
Mr. R.G. Srivastava, Advocate for R-
2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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05.09.2017

1. This first appeal impugns the judgment of the executing court dated 20.3.2017 dismissing the objections filed by the appellant with respect to property B-18, 2nd Floor, Kirti Nagar, New Delhi. Appellant/objector claims that he is the owner of this property in terms of an oral family settlement and not the judgment debtor.
2. In law, disputed questions of fact can only be decided after an opportunity is given to the parties to lead evidence in support of the

respective cases. Disputed questions of fact cannot be decided only by reference to pleadings.

3. Counsels for the parties fairly agree that this appeal can be disposed of by a consent order that the executing court will frame an issue as to whether or not appellant/objector is or is not the owner of the attached property B-18, 2nd Floor, Kirti Nagar, New Delhi, and on this issue appellant will have not more than three opportunities to complete his evidence, failing which right of the appellant to lead evidence shall stand closed. Decree holder/respondent no. 2 or any other party wanting to lead evidence also agrees that they will complete their evidence in three opportunities. Executing court is requested to ensure that arguments in the objections are complete within four months of completion of the recording of evidences of the parties. Executing court is also requested to expedite the disposal of the objections as also the main executing petition itself in which the respondent no. 2/decreed holder has to recover a huge amount running into lacs of rupees.

4. Accordingly, this appeal is disposed of by setting aside the

impugned order dated 20.3.2017 and directing a fresh disposal of the objections of the appellant after evidences are led by the parties.

5. Parties to appear before the executing court of Dr. Sugandha Aggarwal, ADJ, West, Tis Hazari Courts, Delhi, on 27.10.2017 for further proceedings in terms of the present order.

6. *Dasti* to counsels for the parties.

VALMIKI J. MEHTA, J

SEPTEMBER 05, 2017

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